

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 1 – SUBREGION 34

ZANE’S, INC.

and

LOCAL 919, UNITED FOOD &  
COMMERCIAL WORKERS UNION,  
AFL-CIO

Case Nos.     01-CA-179261  
                    01-CA-167721  
                    01-CA-181191

**REPLY TO OPPOSITION TO MOTION TO RESCHEDULE**

The Respondent, Zane’s Cycles (“Zane’s”), hereby submits this brief reply in response to Counsel for the General Counsel’s Opposition to Respondent’s Motion to Reschedule.

Respondent requested that the hearing, currently scheduled to begin on December 14, 2016, be rescheduled. Good cause exists to reschedule because the Charging Party filed a Second Amended Charge on November 9, 2016. That charge asserts, for the first time, that Respondent imposed more onerous conditions on employees because they filed charges, in violation of Section 8(a)(4). General Counsel claims that Respondent already responded to those allegations in July 2016. However, that is incorrect. The earlier charge alleged only that Respondent imposed more onerous conditions because they engaged in union activity. The most recent charge alleges that Respondent imposed more onerous conditions because of the filing of the NLRB charges. Those two, separate claims involve different factual predicates and will require different evidence to be substantiated. To that point, Respondent’s deadline to respond to the Second Amended Charge is December 5, 2016. Thus, it is disingenuous to state that no additional response is required or necessary.

Good cause also exists to reschedule because Respondent has exercised its right to retain new counsel to represent it in this matter. General Counsel responded that Respondent had ample time to retain new counsel. There is no dispute that the undersigned was only recently retained. The rationale behind that decision, or the timing thereof, is protected by the attorney-client privilege and the undersigned cannot be made to waive that privilege to justify the change in counsel. Moreover, there is no evidence that the change in counsel was made in an attempt to delay the proceedings.

Good cause also exists to reschedule to allow Respondent's new counsel to represent it in possible settlement discussions with the General Counsel and the Charging Party. General Counsel asserts that engaging in those discussions is not incompatible with the proceeding as scheduled. To the contrary, the undersigned has been tasked with reviewing a year's worth of proceedings concerning more than a dozen bargaining sessions that General Counsel estimates will take ten days to present at the hearing, while simultaneously meeting and interviewing witnesses for the first time, while responding to a new Charge and an extensive subpoena that are both due on the same day, while engaging in settlement discussions, while potentially also responding to 10(j) proceedings and while otherwise preparing for the hearing. Accordingly, Respondent will suffer great prejudice if the hearing proceeds on December 14, 2016. To the contrary, neither the Charging Party or General Counsel has presented any evidence of actual prejudice if the hearing is briefly postponed.

WHEREFORE, for all of the foregoing reasons, Respondent hereby requests that the hearing scheduled for December 14, 2016 be rescheduled.

Dated at Hartford, Connecticut this 1<sup>st</sup> day of December, 2016.



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## CERTIFICATION

This is to certify that a copy of the foregoing has been e-mailed and mailed, as set forth below, this 1<sup>st</sup> day of December to:


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